

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.ESWARAIAH
WRIT PETITION NO : 3612 of 2004

Between:

M.B.V.S.Sujatha, d/o late M.Rama Krishna,
r/o Alamanda Village, Jami Mandal,
Vizianagaram District.

..... PETITIONER

AND

- 1 The Commissioner for Co-operation, Government of A.P., Hyderabad.
- 2 The District Co-operative Officer, Vizianagaram, Vizianagaram District.
- 3 The Deputy Registrar of Co-operative Societies, Vizianagaram,
Vizianagaram District.
- 4 The Alamanda Primary Agricultural Co-operative Credit Society Ltd.,
Alamanda Village, Jami Mandal, Vizianagaram District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring the proceedings in R.C.No.1521 of 2000-B dated 13-1-2004 of the 3rd respondent and the consequential resolution passed by the 4th respondent society on 3-2-2004 as highly illegal, arbitrary, void and consequently set aside the same and pass such other order or orders

Counsel for the Petitioner:MR.D.V.NAGARJUNA BABU

Counsel for the Respondent Nos 1 to 3: GP FOR COOPERATION

And for Respondent No.4: P. Srinivasulu

The Court made the following :

ORDER:

The petitioner, who is working as a Clerk in the 4th respondent Society, was terminated from service through order dated 3.2.2004 by the 4th respondent Society on the ground that her appointment was made contrary to Act 2 of A.P. (Regulation of Appointments to Public Services and Rationalization of Staff Pattern and Pay Structure) Act, 1994 (for short 'Act 2 of 1994').

Learned counsel for the respondents submits that the services of the petitioner was terminated after following due procedure prescribed in law.

It is not in dispute that the employees of the Society are entitled to continue if they are appointed in the sanctioned post in respect of the staffing pattern fixed by the society as approved by the Registrar of Cooperative Societies, subject to the condition that the expenditure of pay and allowances shall

not exceed 2% of the working capital or 30% of the gross profit in terms of actuals in a year, whichever is less. It is also open for the Society to revise the staffing pattern and pay & allowances for fulfilling the said conditions of Section 116 (c) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). Merely because some of these employees have been appointed contrary to Act 2 of 1994, it cannot constitute a ground to remove the services as long as their appointment is in compliance of Section 116 (c) (1) of the Act. If it is a simple removal by the Society in compliance of Section 116 (c) (1) of the Act, this court would not have entertained the writ petition filed by its employee but the action of the society is pursuant to the directions of the higher authorities removing its employees, whose appointment was made contrary to Act 2 of 1994.

The writ petition is disposed of directing the 4th respondent society to review the impugned order and take appropriate decision in conformity with Section 116 (c) (1) of the Act, giving the particulars of the staffing pattern fixed by them as approved by the Commissioner and Registrar of Cooperative Societies and pass appropriate orders in accordance with law. No costs.

14.9.2004

cvm

To,

- 1 The Commissioner for Co-operation, Government of A.P., Hyderabad.
- 2 The District Co-operative Officer, Vizianagaram, Vizianagaram District.
- 3 The Deputy Registrar of Co-operative Societies, Vizianagaram, Vizianagaram District.
- 4 The Alamanda Primary Agricultural Co-operative Credit Society Ltd., Alamanda Village, Jami Mandal, Vizianagaram District.
5. 2 CCs to G.P. for Cooperation (OUT), High Court of A.P., Hyd.
6. 2 CD copies.